

REMARKS

Provisional Double Patenting Rejection

Claims 1-11 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over Claims 1-2, 4, and 7-15 of copending Application No. 10/041,826.

The present application is directed to a method of stimulating tear secretion and mucin production in eyes. The '826 application is directed to a method of enhancing drainage of the lacrimal system. A method of stimulating tear secretion is not an obvious variation of a method of enhancing drainage of the lacrimal system. The two methods involve different part of tissues, have opposite mechanisms and different functions, and achieve different end results.

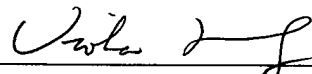
Applicants do not agree with the rejection. However, a Terminal Disclaimer was already submitted in the '826 Application over the instant application on November 1, 2004. A copy of the Terminal Disclaimer is enclosed herewith. Therefore, the provisional double patenting rejection should be withdrawn.

CONCLUSION

Applicants believe that the application is in good and proper condition for allowance. Early notification of allowance is earnestly solicited. If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is encouraged to call the undersigned at (650) 463-8181.

Respectfully submitted,

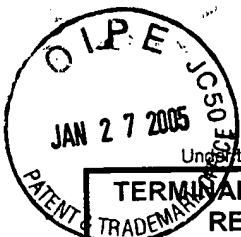
Date: January 27, 2005



Viola T. Kung (Reg. No. 41,131)

Enclosure: copy of Terminal Disclaimer

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**TERMINAL DISCLAIMER TO OBTAIN A PROVISIONAL DOUBLE PATENTING
REJECTION OVER A PENDING "REFERENCE" APPLICATION**Docket Number (Optional)
03678.0023.CNUS03

In re Application of: Benjamin R. YERXA, et al.

Application No.: 10/041,826

Filed: January 3, 2002

COPY

For: METHOD OF ENHANCING DRAINAGE OF LACRIMAL SYSTEM WITH PURINERGIC RECEPTOR AGONISTS

The owner*, Inspire Pharmaceuticals, of 100% percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of any patent granted on pending reference Application Number 10/010,055, filed on 11/09/01, as such term is defined in 35 U.S.C. 154 and 173, and as the term of any patent granted on said reference application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending reference application. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the reference application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of any patent granted on said reference application, "as the term of any patent granted on said reference application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending reference application," in the event that: any such patent: granted on the pending reference application: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

Check either box 1 or 2 below, if appropriate.

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I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney or agent of record. Reg. No. 41,131

Signature

November 1, 2004

Date

Viola T. Kung

Typed or printed name

(650) 463-8181

Telephone Number

- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) is included.

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